

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

TIMOTHY HEADRICK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:18 CV 1683 CDP
	)	
DALE GLASS, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

The remaining defendants in this prisoner civil rights case have moved under Rule 41(b), Federal Rules of Civil Procedure, to dismiss with prejudice plaintiff Timothy Headrick's claims against them for failure to prosecute and failure to comply with Court orders. Headrick, who proceeds in this action *pro se*, failed to respond to defendants' motions and failed to respond to orders to show cause why the motions should not be granted. In the circumstances of this case, I will grant the defendants' motions to dismiss but will dismiss the action without prejudice.

When Headrick filed this action in October 2018, he was confined at the St. Louis City Justice Center. In January 2019 and again in March 2019, Headrick notified the Court of his address change to the Eastern Reception, Diagnostic and Correctional Center. (ECF 5, 8.) In June 2019, Headrick again notified the Court of an address change – this time to Potosi Correctional Center (PCC). (ECF 20.)

Headrick has filed no change of address with the Court since that time – either in this case or in the two other cases consolidated into this one.<sup>1</sup> The show cause orders issued to Headrick on the defendants’ motions to dismiss were mailed to Headrick at PCC, his last address of record, but they were both returned to the Court as undeliverable. (ECF 50, 51.) The first show cause order was returned to the Court on June 8, 2020. The second show cause order was returned on June 22. Although the Clerk of Court independently obtained a mailing address for Headrick from the Missouri Department of Corrections and resent the orders to that address, Headrick has yet to notify the Court of a change of address. Nor has he responded to the orders to show cause that were resent to the MDOC-provided address.

Local Rule 2.06(B) instructs the Court to dismiss an action without prejudice for a *pro se* plaintiff’s failure to notify the Court of his change of address within thirty days after mail sent to the plaintiff is returned to the Court. In their motions to dismiss, however, defendants argue that the action should be dismissed *with* prejudice given Headrick’s apparent willful disregard of Court orders. The envelopes returned to the Court by PCC are marked with a notation that the forwarding order had expired, and one envelope appears to indicate that Headrick has not been at PCC since January 10, 2020. (See ECF 51.) Because the orders

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<sup>1</sup> *Headrick v. Glass, et al.*, Case No. 4:18CV1696 CDP; *Headrick v. Steph, et al.*, Case No. 4:19CV920 CDP.


that defendants contend Headrick failed to comply with were entered after January 10 (*see* ECF 40, 42), I cannot conclusively find that Headrick received the orders and purposely and deliberately refused to comply with them. Nevertheless, by failing to inform defendants and the Court of his current address within the time fixed by the Local Rule, Headrick has rendered himself unable to participate in and prosecute this action. I will therefore grant defendants' motions to dismiss under Rule 41(b) for failure to prosecute but will dismiss the action without prejudice as prescribed by Local Rule 2.06(B).

Accordingly,

**IT IS HEREBY ORDERED** that defendants Fe Fuentes's and James Dahm's motions to dismiss [44] [47] are granted in part and denied in part.

**IT IS FURTHER ORDERED** that plaintiff Timothy Headrick's claims that remain in this action against defendant Fe Fuentes and James Dahm are **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b) and Local Rule 2.06(B). As a result, this action is now closed.

A separate Order of Dismissal is entered herewith.

  
CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 14th day of July, 2020.